United States Bankruptcy Court
Eastern District of North Carolina

In re:
Tonya Evette Summers
Debtor

Case No. 16-06244-DMW
Chapter 13

CERTIFICATE OF NOTICE

District/off: 0417-5 User: wiggins_c Page 1 of 1 Date Rcvd: Mar 08, 2017
Form ID: pdf014 Total Noticed: 2

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 10, 2017.

cr +Carillon Assisted Living of Knightdale, LLC, c/o Cody R. Loughridge, Hannah Sheridan Loughridge & Cochran, LL, 5400 Glenwood Ave., Ste. 410, Raleigh, NC 27612-3205

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

db +E-mail/PDF: tsumm2@outlook.com Mar 09 2017 02:11:51 Tonya Evette Summers, 527 Waterford Lake Dr., Cary, NC 27519-9404

TOTAL: 1

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 10, 2017 Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 8, 2017 at the address(es) listed below:

Cody R. Loughridge on behalf of Creditor Carillon Assisted Living of Knightdale, LLC cloughridge@hslc-law.com
Erich M. Fabricius on behalf of Debtor Tonya Evette Summers emf@fabriciuslaw.com, ecf+fablaw@bkccn.com
John F. Logan lweidenhamer@ralch13.com, casefiles@ralch13.com,skeighley@ralch13.com
Joseph J. Vonnegut on behalf of Creditor NATIONSTAR MORTGAGE LLC bkymail@hskplaw.com, troy.staley@ecf.inforuptcy.com

TOTAL: 4

SO ORDERED.

SIGNED this 8 day of March, 2017.

David M. Warren
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:	)	Case No. 16-06244-5-DMW
	)	
TONYA EVETTE SUMMERS	)	Chapter 13
	)	
Debtor.	)	
	)	

ORDER AVOIDING JUDICIAL LIEN OF
CARILLON ASSISTED LIVING OF KNIGHTDALE, LLC

THIS MATTER comes before the Court on the amended motion of Tonya Evette Summers ("Debtor") to avoid a judicial lien of Carillon Assisted Living of Knightdale, LLC ("Carillon") pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014. Having considered the motion and other matters of record in this case, the Court finds and concludes:

1. This matter is a core proceeding pursuant to 28 U.S.C. § 157, and the court has jurisdiction pursuant to 28 U.S.C. §§ 151, 157, and 1334. The court has the authority to hear this matter pursuant to the General Order of Reference entered August 3, 1984 by the United States District Court for the Eastern District of North Carolina.
2. The Debtor filed a petition for relief under Chapter 13 of the United States Bankruptcy Code on December 5, 2016 ("Petition Date").
3. The Debtor is the sole owner of real property described as 527 Waterford Lake Dr., Cary, NC 27519 ("Property") having a fair market value of $179,086.00 as of the Petition Date. The Property is described with more particularity in a deed recorded in Book 16308 at Page 2149 of the Wake County Registry.
4. The Property is the Debtor's residence, and the Debtor could claim an exemption in the amount of $34,500.00 pursuant to N.C. Gen. Stat. § 1C-1601(a)(1) if there were no liens on the Property.

5. The Property is encumbered by a first priority deed of trust in favor of Nationstar Mortgage ("1st Mortgage Creditor"). As of the Petition Date, the obligation owed to the 1st Mortgage Creditor had an unpaid balance of $143,449.61, per the creditor's proof of claim.
6. Cary Park Property Owners Association ("1st Lien Creditor") obtained a claim of lien against the Property as referenced in file 15 M 4400 in the Office of the Clerk of Court of Wake County, which secures a debt in the amount of $1,242.00 as of the Petition Date, per the creditor's proof of claim.
7. Carillon obtained a judgment against the Debtor as referenced in file 16 CVD 5376 in the Office of the Clerk of Court of Wake County in the amount of $18,877.43 including interest and attorney's fees, as of the Petition Date, per the proof of claim filed by Carillon. That judgment constitutes a judicial lien encumbering the Property.
8. Pursuant to 11 U.S.C. § 522(f)(2)(A), "a lien shall be considered to impair an exemption to the extent that the sum of (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens."
9. The total amount of the liens on the Property plus the amount of the exemption the Debtor could claim if there were no liens on the Property exceeds the value the Debtor's interest in the Property would have in the absence of any liens; therefore, the judicial lien of Carillon impairs an exemption pursuant to 11 U.S.C. § 522(f)(2)(A) and is subject to avoidance pursuant to 11 U.S.C. § 522(f)(1). The calculations are as follows:

1st Mortgage Creditor	$143,449.61
1st Lien Creditor (Cary Park HOA)	$1,242.00
Carillon	$18,877.43
Exemption	$34,500.00
Total Liens and Exemption	**$198,069.04**
Less: Property Value	($179,086.00)
Amount of Impairment	$18,983.04
Amount of Lien Avoided	$18,877.43

THEREFORE, it is

ORDERED that the judgment held by Carillon pursuant to a judgment referenced in file 16 CVD 5376 in the Office of the Clerk of Court of Wake County is avoided and the lien cancelled in the full amount of the judgment; and it is further

ORDERED that that the lien held by Carillon shall have no further force and effect upon the Property, subject to the condition that if this case is dismissed then, pursuant to 11 U.S.C. § 349(b)(1)(B), the lien held by Carillon shall remain valid and enforceable and shall continue to encumber the Property.

END OF DOCUMENT